

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
WACO DIVISION

MOV-ology LLC,

Plaintiff,

v.

Temenos AG,
Temenos U.S.A., Inc.,
Temenos Cloud Americas, LLC,
Avoka (USA), Inc., and
Kony, Inc.,

Defendants.

Civil Action No. 6:23-cv-00391-ADA

Jury Trial Demanded

STIPULATION OF DISMISSAL WITHOUT PREJUDICE OF TEMENOS AG

Plaintiff MOV-ology LLC and Defendants Temenos U.S.A., Inc., Temenos Cloud Americas LLC, Avoka (USA), Inc., and Kony, Inc. stipulate under Fed. R. Civ. P. 41(a)(1)(A)(ii) to dismiss Temenos AG without prejudice, subject to the following conditions:

WHEREAS, Temenos AG has been named as a defendant in the above-captioned civil action;

WHEREAS, counsel for Defendants has informed Plaintiff that Temenos AG does not make, use, offer to sell, or sell in the United States, or import into the United States, any of the accused products or services identified in the Complaint or otherwise containing the features and functionality identified in the Complaint as infringing the asserted patents;

WHEREAS, Temenos AG contests the jurisdiction of the United States District Court for the Western District of Texas and believes it is not properly named as a party to this action; and

WHEREAS, the parties wish to avoid the expense and distraction of motions practice regarding Temenos AG in this action.

THE PARTIES HEREBY STIPULATE:

1. Defendants Temenos U.S.A., Inc., Temenos Cloud Americas LLC, Avoka (USA), Inc., and Kony, Inc. represent that one or more of them book substantially all relevant revenues, costs, and profits for the products and services accused in the Complaint and that each could pay any judgment that may result from this litigation.

2. For the purposes of discovery in this case only, Temenos U.S.A., Inc., Temenos Cloud Americas LLC, Avoka (USA), Inc., and Kony, Inc. agree that any information, witnesses, and documents in the possession, custody, or control of Temenos AG shall be deemed in the possession, custody, or control of Temenos U.S.A., Inc., Temenos Cloud Americas LLC, Avoka (USA), Inc., and Kony, Inc., but only to the extent they may be relevant to this litigation and are not otherwise available from the remaining Defendants.

3. If later information or discovery reveals that Temenos AG should be joined to this action, the remaining Defendants agree that MOV-ology may seek joinder and Defendants will not oppose joinder based on waiver, estoppel, or other such ground.

4. MOV-ology and the remaining Defendants agree to meet and confer in good faith to resolve any objections consistent with this stipulation, including objections to the nature or scope of any requests for documents, information, testimony, or any other discoverable matter.

In light of the above stipulations, MOV-ology and Defendants stipulate that Temenos AG be dismissed without prejudice from this action, with each party bearing its own costs and fees.

Dated: July 25, 2023

Respectfully submitted,

By: /s/ Patrick A. Fitch

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Certificate of Service

I hereby certify that, on July 25, 2023, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

/s/ Thomas J. Armento

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